

**IN THE MAGISTRATE'S COURT AT SUVA**

**CRIMINAL DIVISION**

**Criminal Case No. 143 of 2014**

**The State –v- Vikash Prakash Mehta**

**For the State: Ms Prasad**

**For the Accused: Mr. O'Driscoll**

**SENTENCE**

Vikash Prasad Mehta you have been convicted as charged of 8 counts of Money Laundering contrary to section 69 (2) (a) and (3) (a) of the Proceeds of Crime Act.

The particulars of the offence are as follows: -

- For the first count- between 7<sup>th</sup> December 2012 and the 1<sup>st</sup> of October 2013 at Suva you used ANZ Bank Account Number 8979847 to launder the sum of \$226, 911.75
- For the second count – between 5<sup>th</sup> September 2013 and the 1<sup>st</sup> of October 2013 at Suva you used ANZ Bank Account No. 11768185 to launder the sum of \$21, 298.56
- For the third count – on the 6<sup>th</sup> of December 2012 at Suva you used ANZ Bank No. 7718571 to launder \$1, 000
- For the fourth count – from 15<sup>th</sup> August 2013 to the 13<sup>th</sup> September 2013 at Suva you used ANZ Bank Account No. 7475933 to launder the sum of \$22, 405.87
- For the fifth count – from 16<sup>th</sup> October 2012 to the 7<sup>th</sup> of August 2013 at Suva you used ANZ Bank Account No. 9832778 to launder the sum of \$64, 812.13
- For the sixth count – from the 22<sup>nd</sup> of May 2012 to the 24<sup>th</sup> of May 2012 at Suva you used ANZ Bank Account No. 7272773 to launder the sum of \$4, 574.49
- For the seventh count – from the 21<sup>st</sup> of August 2012 and 31<sup>st</sup> August 2012 at Suva you used ANZ Bank Account No. 10448451 to launder the sum of \$21, 298.56
- For the eighth count – from the 7<sup>th</sup> of September 2012 to the 28<sup>th</sup> of September 2012 at Suva you used ANZ Bank Account No. 8715738 to launder the sum of \$8, 128.86

In order to commit these offences you persuaded the account holders for these ANZ Accounts to agree to have these sums fraudulently deposited into their accounts and in turn they would allow you to withdraw from the accounts on request

Internal audits revealed discrepancies in the accounts and after investigations – it was revealed that you laundered a total of \$356, 702.36. Of this amount only \$3, 370 was recovered while the Bank reversed transactions to the amount of \$11, 612.15 after your fraudulent entries were discovered. In your record of interview under caution you admitted that the main beneficiary of these offences was yourself.

You have entered a guilty plea and you also admit the summary of the facts that has been outlined by the prosecution.

I find that your guilty plea is unequivocal therefore you now stand convicted as charged.

You are a first offender and counsel has offered the plea in mitigation as follows: -

- You are 30 years of age, married with a child of 2 years 5 months.
- Your wife works and your child is looked after by your parents during the day.
- You are currently working part time for Professional Valuations Ltd
- You cooperated with the police and you entered a guilty plea at the earliest opportunity after receiving proper legal advice
- You worked for the bank for 5 years prior to the offending and you have expressed your remorse in person and in writing to your former employers
- You have also set out the circumstances of your offending
- You submit that a custodial sentence will be particularly detrimental to your family, especially your young daughter
- You submit that the offending in this instance should be treated as less serious as the institution is a private bank with insurance cover.
- You are remorseful and you seek the Court's mercy.

You have also submitted 4 character references from the following: -

- Mr. Sanjay Kirpal, Company Director for Professional Valuations Ltd
- Mr. Jainendra Vikash, Director Mega Paper Supplies (Fiji) Ltd
- Meja Singh, President of Samabula Sikh Temple
- Hon. Balminder Singh on behalf of the Fiji Sikh Football Association

The State has filed sentencing submissions and submits as follows: -

- The maximum sentence for money laundering is 20 years imprisonment and or a maximum fine not exceeding \$120, 000.
- The tariff as set out in the case of State –v- Robin Shyam [2013] FJHC Crim. Case No. 146 of 2010 ranges from 5 to 12 years imprisonment.
- For the nature and gravity of the offence – this was a serious offence perpetrated by an employee of the Bank in a position of trust.

- You alone are responsible as this is a premeditated offence occurring over the space of 12 months.
- From the total of \$356, 707.36 laundered by you, only \$11, 612.15 has been recovered.
- For the mitigating factors you have pleaded guilty and taken responsibility for your actions and you are also a person of previous good conduct as a first offender.
- The State recommends a sentence that is commensurate with the offending in this case.

The Court notes section 4 of the Sentencing and Penalties Decree, which provides as follows: -

*"Sentencing Guidelines*

4.—(1) The only purposes for which sentencing may be imposed by a court are—

- (a) to punish offenders to an extent and in a manner which is just in all the circumstances;
- (b) to protect the community from offenders;
- (c) to deter offenders or other persons from committing offences of the same or similar nature;
- (d) to establish conditions so that rehabilitation of offenders may be promoted or facilitated;
- (e) to signify that the court and the community denounce the commission of such offences; or
- (f) any combination of these purposes.

(2) In sentencing offenders a court must have regard to—

- (a) the maximum penalty prescribed for the offence;
- (b) current sentencing practice and the terms of any applicable guideline judgment;
- (c) the nature and gravity of the particular offence;
- (d) the offender's culpability and degree of responsibility for the offence;
- (e) the impact of the offence on any victim of the offence and the injury, loss or damage resulting from the offence;
- (f) whether the offender pleaded guilty to the offence, and if so, the stage in the proceedings at which the offender did so or indicated an intention to do so;
- (g) the conduct of the offender during the trial as an indication of remorse or the lack of remorse;
- (h) any action taken by the offender to make restitution for the injury, loss or damage arising from the offence, including his or her willingness to comply with any order for restitution that a court may consider under this Decree;
- (i) the offender's previous character;
- (j) the presence of any aggravating or mitigating factor concerning the offender or any other circumstance relevant to the commission of the offence; and
- (k) any matter stated in this Decree as being grounds for applying a particular sentencing option."

In sentencing you the Court acknowledge your guilty plea, which although not an early plea, nevertheless was a plea that you had intimated from the beginning that you would take.

You are a first offender. Normally this would attract an additional substantial discount of your sentence, however for offences such as this involving a breach of trust, previous good conduct

would not attract the same discount as your previous good conduct gave you access in the first instance to these funds enabling the offending to take place.

Part of your submissions in mitigation tried to minimise the seriousness of the offending in light of the fact that the "victim" is a private bank with full insurance cover. With respect this argument does not assist you as there are no categories of victim that would justify a sliding scale of sentences.

The settled tariff for the offence of Money Laundering ranges from 5 years to 12 years imprisonment. Each of the 8 counts can be characterised as being offences under one transaction spread out over a period of a little over one year therefore you will receive a concurrent sentence on each count.

The mitigating factors include your guilty plea, previous good conduct and your personal family circumstances; you will receive a discount for this even though it might not be as generous as for any other offence apart from a breach of trust offence.

The aggravating factors include the serious breach of trust and lack of recovery of a majority of the laundered money. The offending was premeditated and persistent and your actions revealed a clear intention to take as much money as you could in the period of the offending. There is every indication that you were not going to stop until you were caught.

Another aggravating factor is the effect of your crimes on the reputation and trust reposed in ANZ Bank, one of Fiji's premier financial institutions with a well earned reputation for probity and security of financial transactions. Your actions have endangered this and placed this into question.

The Court therefore finds that the offending in this case lies at the higher end for these offences and adopts a starting point of 8 years imprisonment. For the aggravating factors outlined above the sentence is increased by 3 years leaving you with a sentence of 11 years.

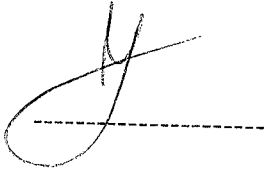
For your guilty plea and previous good conduct as a first offender your sentence is reduced by 3 years. This leaves you with a final sentence of 8 years on each count.

Vikash Prasad Mehta this is your sentence: -

1. First Count - Money Laundering I sentence you to 8 years imprisonment.
2. Second Count - Money Laundering I sentence you to 8 years imprisonment,
3. Third Count - Money Laundering I sentence you to 8 years imprisonment
4. Fourth Count - Money Laundering I sentence you to 8 years imprisonment
5. Fifth Count - Money Laundering I sentence you to 8 years imprisonment
6. Sixth Count - Money Laundering I sentence you to 8 years imprisonment
7. Seventh Count - Money Laundering I sentence you to 8 years imprisonment
8. Eighth Count - Money Laundering I sentence you to 8 years imprisonment

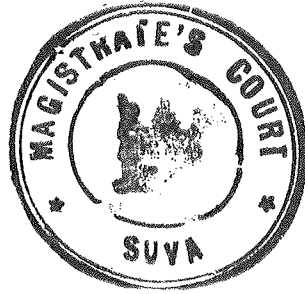
Each count shall be served concurrently and pursuant to section 18 of the Sentencing and Penalties Decree I direct that of your 8 years sentence you will serve 6 years as a non parole period.

28 days to appeal



Usaia Ratuveli

Chief Magistrate



21<sup>st</sup> April 2015